

## **REMARKS**

Applicant initially presented claims 1-79 for examination. Claims 9-11 and claim 71 were canceled by a previous Amendment. The Examiner mailed a final Office Action on January 31, 2006, and an Advisory Action on June 12, 2006. Applicant filed a Notice of Appeal with regard to this application on July 31, 2006. The Office Action and Advisory Action were received and their contents carefully reviewed. In response to the Advisory Action and the previous Office Action, Applicant filed a Request for Continued Examination concurrently with this Amendment.

In the present Amendment, Applicant amended all independent claims 1, 28, 53, 77, 78, and 79 to provide additional context and details regarding the present invention. Additionally, Applicant amended dependent claims 30, 31, 33, 35, 44-46, 50, 51, 53, 59, 61, 68, and 75 to add additional detail to the claims, to correct formatting errors, and to correct improper dependencies. Support for these amendments may be found throughout the Specification and at least in paragraphs [0006-0008, 0018-0022, 0024-0027, and 0030-0036]. Applicant also canceled dependent method claims 2 and 3. As such, Applicant respectfully submits that no new matter was introduced by these amendments and new claims.

As now recited, claims 1, 4-8, 12-70, and 72-79 are currently pending and are believed to be in condition for allowance. With respect, Applicant submits that the present Amendment complies with the submission requirements of a Request for Continued Examination and requests reconsideration of the present application in light of the above amendments and the following remarks.

### **A. Claim Rejections Under 35 U.S.C. § 102**

#### **1. Rejection of Method Claims 1-8 and Claims 12-27 under 35 U.S.C. § 102(e)**

Claims 1-8, 12-70, and 72-79 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Gershman et al. U.S. Patent Number 6,401,085 ("Gershman"). In view of the amendments above and the comments below, Applicant respectfully requests reconsideration and withdrawal of these rejections under 35 U.S.C. § 102(e).

The present invention relates to a system and method of providing targeted programming to a user outside of the user's home. The system and method provide targeted programming to users by employing user identification and user profile information as well as reception site information.

For example, amended independent claim 1 recites a method for providing targeted programming to a user outside of the user's home. The method includes receiving a user identification associated with a user, the user identification comprising an identifier corresponding to an account number used in a transaction as well as receiving reception site information to identify a user action and a site at which the user action is taking place. Further, amended claim 1 recites receiving a user profile based upon the user identification, the user profile including information characteristic of the user and selecting a targeted program based on the reception site information and the user profile. Additionally, claim 1 recites providing the targeted program for presentation to a user outside of the user's home.

The Gershman patent, on the other hand, is directed to an agent-based system and method that accesses the Internet to obtain product information for a user. Gershman appears to disclose a hand-held device with Internet Protocol capability that is used with other peripherals to provide an Internet portal (see col. 3, lines 14-18 of the Gershman patent). While, the Gershman patent discloses a method for a client (i.e., web browser) to make a request to a web server for a particular web page, Gershman fails to disclose a method for providing targeted programming to a user outside of the user's home by receiving a user identification associated with the user, where the user identification includes an identifier corresponding to an account number used in a transaction, as well as receiving reception site information to identify a user action and a site at which the user action is taking place as recited in amended independent claim 1.

Specifically, Gershman fails to disclose these elements that provide user information, location information, and user action information with which a targeted program is selected and provided to a user outside the user's home. Gershman instead

focuses on providing web page layout and content information based upon a static user profile (see Fig. 10B and col. 40, lines 28-54 of the Gershman patent).

Applicant amended independent claim 1 of the present application to recite receiving reception site information to identify a user action and a site at which the user action is taking place as well as to recite receiving a user profile based upon the user identification, the user profile including information characteristic of the user. Applicant also amended independent claim 1 to more clearly recite selecting a targeted program based on the reception site information and the user profile, and then providing the target program to the user outside of the user's home.

To extend the gasoline purchasing example used in the present application starting on page 6, line 15 (i.e., paragraph [0022] and throughout) of the Specification, account numbers used in transactions can be used to identify users outside their homes. At gasoline pumps, a user may swipe his credit card and the pump will automatically be able to identify the user (e.g., John Doe), the user action (e.g., purchasing gasoline) and a site at which the user action is taking place (e.g., the neighborhood Chevron gas station). Based upon this information, a targeted program (e.g., an advertisement showing a specially priced oil change) may be selected and presented to the user outside the user's home (e.g., on the display of the gas pump).

Gershman does not describe a method in which targeted programming content is delivered to a user identified by an account number used in a transaction nor of receiving reception site information to identify a user action and a site at which the user action is taking place as recited in amended independent claim 1.

As such, Applicant respectfully submits that the Gershman patent fails to disclose all of the features of amended independent claim 1 and thereby fails to anticipate amended independent claim 1 under 35 U.S.C. § 102(e). As such, Applicant respectfully submits that amended claim 1 is allowable over the Gershman patent and requests reconsideration of amended independent claim and withdrawal of the rejection under 35 U.S.C. § 102(e).

Applicant canceled claims 2 and 3 above. Dependent claims 4-8 and claims 12-27 are dependent upon amended independent claim 1, and thereby include all the

limitations of independent claim 1, while reciting additional features of the present invention. As noted above, Applicant amended independent claim 1 to include limitations not disclosed by the Gershman patent. Accordingly, with the dependency of claims 4-8, and claims 12-27 on amended independent claim 1, the Gershman patent fails to disclose all of the features as recited in dependent claims 4-8 and claims 12-27. Applicant respectfully submits that the reference thereby fails to anticipate claims 4-8 and claims 12-27 under 35 U.S.C. § 102(e) and that these claims are likewise in proper condition for allowance. Applicant respectfully requests the reconsideration of claims 4-8, and claims 12-27 and the withdrawal of the rejection under 35 U.S.C. § 102(e).

## 2. Rejection of System Claims 28-52 under 35 U.S.C. § 102(e)

With regard to claims 28-52, Applicant amended independent claim 28 above to recite additional structural features not disclosed in the cited prior art. As discussed above with regard to amended independent claim 1, Applicant amended claim 28 to recite a user interface device that obtains user identification information including an account number used in a transaction as well as reception site information to identify a user action and a site at which the user action is taking place. Applicant also amended independent claim 28 to recite a controller that receives the user identification information including an account number used in a transaction and the reception site information to identify a user action and a site at which the user action is taking place from the user interface device and selects a targeted program based on the user identification information and the reception site information. Further, Applicant amended independent claim 28 to recite that a presentation device receives the targeted program for presentation to a user outside of the user's home.

As indicated above with respect to amended independent claim 1, Gershman fails to disclose these elements that obtain user information, location information, and user action information with which a targeted program is selected and provided to a user outside the user's home. Gershman instead focuses on providing web page

layout and content information based upon a static user profile (see Fig. 10B and col. 40, lines 28-54 of the Gershman patent).

Gershman does not describe a system utilizing the specific interface device and controller with which targeted programming content is delivered to a user identified by an account number used in a transaction nor of obtaining reception site information to identify a user action and a site at which the user action is taking place as recited in amended independent claim 28.

As such, Applicant respectfully submits that the Gershman patent fails to disclose all of the features of amended independent claim 28 and thereby fails to anticipate amended independent claim 28 under 35 U.S.C. § 102(e). As such, Applicant respectfully submits that amended claim 28 is allowable over the Gershman patent and requests reconsideration of amended independent claim and withdrawal of the rejection under 35 U.S.C. § 102(e).

Dependent claims 29-52 are dependent upon amended independent claim 28, and thereby include all the limitations of independent claim 28, while reciting additional features of the present invention. As noted above, Applicant amended independent claim 28 to include limitations not disclosed by the Gershman patent. Accordingly, with the dependency of claims 29-52 on amended independent claim 28, the Gershman patent fails to disclose all of the features as recited in amended claims 29-52. Applicant respectfully submits that the reference thereby fails to anticipate claims 29-52 under 35 U.S.C. § 102(e) and that these claims are likewise in proper condition for allowance. Applicant respectfully requests the reconsideration of claims 29-52 and the withdrawal of the rejection under 35 U.S.C. § 102(e).

### 3. Rejection of System Claims 53-70 and 72-76 under 35 U.S.C. § 102(e)

With regard to claims 53-70 and 72-76, Applicant likewise amended independent claim 53 above to recite similar structural features recited in amended independent claim 28 and not disclosed in the cited prior art. As discussed above with regard to amended independent claims 1 and 28, Applicant amended claim 53 to recite a system for presenting targeted programming to a user outside of the user's home

including an input device that receives a user identification including an identifier corresponding to an account number used in a transaction and that also receives reception site information to identify a user action and a site at which the user action is taking place. Applicant also amended independent claim 53 to recite a controller that selects a targeted program based on the user identification including an identifier corresponding to an account number used in a transaction and the reception site information to identify a user action and a site at which the user action is taking place.

As indicated above with respect to amended independent claims 1 and 28, Gershman fails to disclose these elements that receive user information, location information, and user action information with which a targeted program is selected and provided to a user outside the user's home. Gershman instead focuses on providing web page layout and content information based upon a static user profile (see Fig. 10B and col. 40, lines 28-54 of the Gershman patent).

Gershman does not describe a system utilizing the specific input device and controller with which targeted programming content is delivered to a user identified by an account number used in a transaction nor of receiving reception site information to identify a user action and a site at which the user action is taking place as recited in amended independent claim 53.

As such, Applicant respectfully submits that the Gershman patent fails to disclose all of the features of amended independent claim 53 and thereby fails to anticipate amended independent claim 53 under 35 U.S.C. § 102(e). Applicant respectfully submits that amended claim 53 is allowable over the Gershman patent and requests reconsideration of amended independent claim and withdrawal of the rejection under 35 U.S.C. § 102(e).

Dependent claims 54-70 and claims 72-76 are dependent upon amended independent claim 53, and thereby include all the limitations of independent claim 53, while reciting additional features of the present invention. As noted above, Applicant amended independent claim 53 to include limitations not disclosed by the Gershman patent. Accordingly, with the dependency of claims 54-70 and claims 72-76 on amended independent claim 53, the Gershman patent fails to disclose all of the

features as recited in amended claims 54-70 and claims 72-76. Applicant respectfully submits that the reference thereby fails to anticipate claims 54-70 and claims 72-76 under 35 U.S.C. § 102(e) and that these claims are likewise in proper condition for allowance. Applicant respectfully requests the reconsideration of claims 54-70 and claims 72-76 and the withdrawal of the rejection under 35 U.S.C. § 102(e).

4. Rejection of Claims 77, 78, and 79 under 35 U.S.C. § 102(e)

With regard to claims 77, 78, and 79, Applicant likewise amended these independent claims above to recite similar structural features recited in amended independent claims 1, 28, and 53 and not disclosed in the cited prior art. As discussed above with regard to amended independent claims 1, 28, and 53, Applicant amended claims 77, 78, and 79 to recite computer readable program code means, code segments, and structural details for presenting targeted programming to a user outside of the user's home.

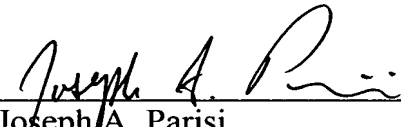
Gershman does not describe an article of manufacture including a computer readable medium having computer readable program code means for causing a computer to perform the steps recited in amended independent claim 77, nor a computer data signal embodied in a transmission medium including the code segments recited in amended independent claim 78, nor a system including the means of claim 79.

As such, Applicant respectfully submits that the Gershman patent fails to disclose all of the features of amended independent claims 77, 78, and 79 and thereby fails to anticipate amended independent claims 77, 78, and 79 under 35 U.S.C. § 102(e). As such, Applicant respectfully submits that amended claims 77, 78, and 79 are allowable over the Gershman patent and requests reconsideration of amended independent claims 77, 78, and 79 and withdrawal of the rejection under 35 U.S.C. § 102(e).

**B. Conclusion**

Applicant respectfully requests that the Examiner reconsider and withdraw the rejections of record and allow claims 1, 4-8, 12-70, and 72-79 in the present application to issue. If the Examiner believes that a conference would be beneficial in expediting the prosecution of the present application, Applicant invites the Examiner to telephone counsel to arrange such a conference.

Respectfully submitted,

  
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Joseph A. Parisi  
Registration No. 53,435

NIXON PEABODY LLP  
Suite 900, 401 9<sup>th</sup> Street, N.W.  
Washington, D.C. 20004-2128  
(202) 585-8000